

APPEAL NO. 031706
FILED AUGUST 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 28, 2003. With respect to the issues before him, the hearing officer determined that the appellant (claimant) sustained a compensable injury in the form of an occupational disease with a date of injury of _____, and that she did not have disability as a result of the _____, injury. In her appeal, the claimant argues that the hearing officer erred in determining that she did not have disability for the period from July 30, 2002, the date that her employment with the employer was terminated, to the date of the hearing. In its response, the respondent (carrier) urges affirmance. The carrier did not appeal the determination that the claimant sustained a compensable occupational disease injury with a date of injury of _____, and that determination has, therefore, become final. Section 410.169.

DECISION

Reversed and remanded.

The hearing officer determined that the claimant did not have disability as a result of her compensable occupational disease injury. In Finding of Fact No. 7, the hearing officer stated "Claimant's unemployment on and after her termination on July 30, 2002, was due to a labor dispute between Claimant and her Employer, not to her compensable injury, as evidenced by the fact that Claimant was able to work for Employer with restrictions for an extended period before her termination." Because the hearing officer determined that the claimant did not have disability after her employment from a light-duty position was terminated, it appears that he believed that there was some voluntary component to the claimant's having left her employment and/or that her employment was terminated for cause. We believe that his statement that the claimant's unemployment was "due to a labor dispute between Claimant and her Employer" is attempting to express that the claimant's behavior or actions lead to the termination of her employment and, thus, she did not establish that she had disability related to her compensable injury. However, the hearing officer does not provide any explanation as to the nature of the "labor dispute between Claimant and her Employer" and our review of the record does not reveal the hearing officer's rationale. In the absence of our having an understanding of the basis for the hearing officer's disability determination, we are unable to meaningfully review that determination. Accordingly, we reverse the hearing officer's determination that the claimant did not have disability and remand for clarification and further findings related to the disability issue.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new

decision is received from the Texas Workers' Compensation Commission's Division of Hearings, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge